

BOIES SCHILLER FLEXNER LLP

David Boies (admitted pro hac vice)
333 Main Street
Armonk, NY 10504
Tel: (914) 749-8200
dboies@bsfllp.com

Mark C. Mao, CA Bar No. 236165
Beko Reblitz-Richardson, CA Bar No. 238027

44 Montgomery St., 41st Floor
San Francisco, CA 94104
Tel.: (415) 293-6800

mmao@bsfllp.com
brichardson@bsfllp.com
enyborg-burch@bsfllp.com

James Lee (admitted pro hac vice)
Rossana Baeza (admitted pro hac vice)

100 SE 2nd St., 28th Floor
Miami, FL 33131
Tel.: (305) 539-8400

jlee@bsfllp.com
rbaeza@bsfllp.com

Alison L. Anderson, CA Bar No. 275334

M. Logan Wright, CA Bar No. 349004
725 S Figueroa St., 31st Floor

Los Angeles, CA 90017
Tel.: (213) 995-5720

alanderson@bsfllp.com

SUSMAN GODFREY L.L.P.

Bill Carmody (admitted pro hac vice)
Shawn J. Rabin (admitted pro hac vice)
Steven M. Shepard (admitted pro hac vice)
Alexander Frawley (admitted pro hac vice)
1301 Avenue of the Americas, 32nd Floor
New York, NY 10019

Tel.: (212) 336-8330
bcarmody@susmangodfrey.com
srabin@susmangodfrey.com

sshepard@susmangodfrey.com
afrawley@susmangodfrey.com

Amanda K. Bonn, CA Bar No. 270891

1900 Avenue of the Stars, Suite 1400
Los Angeles, CA 90067

Tel.: (310) 789-3100
abonn@susmangodfrey.com

MORGAN & MORGAN

John A. Yanchunis (admitted pro hac vice)

Ryan J. McGee (admitted pro hac vice)

201 N. Franklin Street, 7th Floor
Tampa, FL 33602

Tel.: (813) 223-5505
jyanchunis@forthepeople.com
rmcgee@forthepeople.com

Michael F. Ram, CA Bar No. 104805

711 Van Ness Ave, Suite 500

San Francisco, CA 94102

Tel: (415) 358-6913

mram@forthepeople.com

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CHASOM BROWN, WILLIAM BYATT,
JEREMY DAVIS, CHRISTOPHER

CASTILLO, and MONIQUE TRUJILLO

individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

Case No.: 4:20-cv-03664-YGR-SVK

**[PROPOSED] ORDER DENYING
GOOGLE LLC'S MOTION TO
EXCLUDE WITNESS BLAKE LEMOINE**

Judge: Hon. Yvonne Gonzalez Rogers

Date: November 29, 2023

Time: 9:00 a.m.

Location: Courtroom 1 – 4th Floor

1 Before the Court is Google’s Motion to Exclude Plaintiffs’ Trial Witness Blake Lemoine
2 (“Motion to Exclude”). Dkt. 1015. On October 25, 2023, Plaintiffs filed their Opposition to
3 Google’s Motion to Exclude. Having considered the Motion to Exclude, Plaintiffs’ Opposition,
4 supporting declarations, and other papers on file, the Court **DENIES** Google’s Motion.

5 Mr. Lemoine is a former Google senior software engineer with personal knowledge of
6 Google’s use of private browsing data. Specifically, Mr. Lemoine claims to have personal
7 knowledge about how Google’s internal algorithms, machine learning, and artificial intelligence
8 services may rely on users’ private browsing data, including data collected while users are in
9 Chrome Incognito mode. Mr. Lemoine also claims to have personal knowledge of how Google’s
10 algorithms, machine learning, and artificial intelligence services may be able to reidentify people
11 and their devices even when they are browsing in a private browsing mode. Plaintiffs support
12 these claims with a declaration from Mr. Lemoine, and Google’s Motion does not identify any
13 evidence to refute these assertions. The information is highly relevant to the issues to be presented
14 at trial.

15 While Plaintiffs only disclosed Mr. Lemoine in August 2023, the Court finds that the
16 timing of Plaintiffs’ disclosure is “substantially justified” because Plaintiffs disclosed him mere
17 days after he contacted Plaintiffs to explain that he has relevant knowledge. Fed. R. Civ. P.
18 37(c)(1). Furthermore, the disclosure is also “harmless” because Mr. Lemoine is available for
19 deposition well before trial, and because Google can produce his documents, which Plaintiffs
20 have in any event requested.

21
22
23 **IT IS SO ORDERED.**

24 Dated: _____

Hon. Yvonne Gonzalez Rogers
United States District Judge